

DOES THE KILLING OF A STARFISH REALLY MATTER ?

The death of a single starfish, which is killed, indiscriminately, by an innocent toddler as he plays on the seashore, may seem to the parents, watching the actions of their child, as being immaterial and insignificant.

It is highly unlikely that the parents will chastise the child.

But to the starfish, it is the end of its life.

That fact, however, is rarely considered due to the rank arrogance of man, who thinks that he owns the planet earth.

To the immobile starfish, which is in grave and imminent danger of being seriously and permanently injured, resulting in its untimely death, the intent of the child must appear to be incongruous.

Of course, a starfish cannot talk the language of homo sapiens so that its pleas for life – assuming that it can think in human terms – go unheard.

At law, the innocent and the ignorant, especially, deserve the absolute protection of the State.

Also, the individual must be protected from the State, although, in the People's Republic of China (PRC), it is more often than not that the State is seen as being protected from the individual.

Law is, after all, a code of principles, based on morality, conscience, or nature.

Acts that are perpetrated by individuals within a Roman Law jurisdiction, Roman Law, being the basis of our civil law, acts, that is, which are contrary to the law, require the Judiciary to act on behalf of the State in order to redress the balance.

The Judicial Branch of Government, in Western terms, is independent of the Executive Branch of Government and the Legislative Branch of Government: There is a division of power; and, that division is supposed to be sacrosanct.

It was a promise of the Government of the PRC that, on assumption of sovereignty of the 416 square miles that constitute Hongkong – since July 1, 1997, it has been known as the Hongkong Special Administrative Region (HKSAR) of the PRC – its way of life would be preserved and guaranteed for at least 50 years, that is until the year 2047.

At the time that the late Paramount Leader of the PRC, Mr Deng Xiao Ping, made this promise on behalf of the PRC Government, endorsed by the National People's Congress (NPC), many people in the HKSAR and the rest of the world were skeptical as to whether or not the PRC Government would be able to keep its promises to the people of Hongkong.

Time has proved that that skepticism was well founded.

The First Chief Executive of the HKSAR was Mr Tung Chee Hwa, whose '*election*' was nothing more than a farce, and whose overwhelming success in the days, leading up to those historic '*elections*', was well known.

Months before the votes were cast, it was well known in Hongkong that the entire election procedure was a charade, orchestrated by Mr Lu Ping, Director of the Hongkong and Macau Affairs Office of the Government of the PRC, as it was then known.

This is, very much, in keeping with the modus operandi of the Government of the PRC, which likes to know the outcome of elections to high office, prior to the counting of any votes.

At the '*elections*' for the second, 5-year term for the man to be named as the Chief Executive of the HKSAR, Mr Tung Chee Hwa ran unopposed: He was the only candidate for the post.

And, once again, he was appointed as the HKSAR Chief Executive, that appointment, having been endorsed by the NPC.

On that occasion, Mr Lu Ping was not in evidence since he had retired from the scene.

However, no qualified candidate of the HKSAR was willing to lose face by running in opposition to Mr Tung Chee Hwa, who is known to have the backing of the bigwigs in Beijing.

To put it bluntly, it is well known and appreciated that, without the express '*authority*' and approval of Beijing, no qualified, HKSAR candidate may throw his hat into the political ring for any position in the HKSAR, today.

To the outside world, it must have appeared that the fact that nobody else except Mr Tung Chee Hwa threw his hat into the ring to try to become the Chief Executive of the HKSAR for a second term of office was no great shakes.

The date of July 1, 2002 came and went, with little international fanfare.

And, once again, a smiling Mr Tung Chee Hwa emerged to continue to head his charge of 7 million-odd, HKSAR residents, nearly all of whom are, today, of ethnically Chinese origin.

As with the analogy of the starfish, the death of a single marine echinoderm goes unnoticed and unheralded, for the most part – and the sweeping into power of Mr Tung Chee Hwa on July 1, 2002 was akin to the child's wanton killing of the starfish: Nobody, really, cared because everybody and his cat knew that it would be political suicide to try to oppose this man, who has the ear of Beijing.

The politics of the HKSAR are unique in that they are, for the most part, orchestrated from Beijing, the Capital City of the PRC, although there was that promise from Mr Deng Xiao Ping, made in 1996, that the territory and its population would '*have a high degree of autonomy.*'

In the US, insofar as Presidential Elections are concerned, it is money that talks; in the PRC, for '*election*' to high office, it is sycophancy and power that talks.

That Mr Tung Chee Hwa is in the in in Beijing was made only too apparent, last week, when the PRC Government's State Councillor, Mr Tang Jia Xuan, who is in charge of the HKSAR affairs in the State Council, made the statement, to the effect:

'The Central Government (of the PRC) highly affirms the effectiveness of the atypical pneumonia control work done by Mr Tung (Chee Hwa) and the SAR Government.

'I believe that under the strong leadership of the SAR Government, headed by Mr Tung Chee Hwa, and the concerted efforts of the people of Hongkong, Hongkong can overcome the difficulties and claim victory in the battle against this epidemic ... '.

To be sure, the statement of Mr Tang Jia Xuan flies in the face of truth – assuming that truth plays an important part in politics in the HKSAR and the PRC, proper.

Mr Tung Chee Hwa, in truth, has not been very effective in his handling of the affairs of the HKSAR since July 1, 1997; and, his rating among the population of the HKSAR has fallen to its lowest level, ever.

It is fair to state that, never in the history of Hongkong, that is during the time that the British ruled it, paternalistically, from London, England, there has ever been such a blanket of depression and exasperation, enveloping the territory.

It is not just the matter of the present flat economy, but the feeling of helplessness by most of the thinking residents of the 416 square miles, residents who view a government of non-action with trepidation and with scorn.

Legislators have gone on record as saying such.

The Sackings In The PRC, Proper

More than 120 senior officials in the employ of the Government of the PRC in 15 cities and/or regions were, recently, sacked or severely reprimanded for dereliction of duties.

They were sacked for their actions – or non-actions – in connection with trying to contain the outbreaks of the disease, which is said to have had its roots in the southern part of the PRC: **Severe Acute Respiratory Syndrome (SARS)**.

Beijing, today, wants the world to know that its Government is accountable to its 1.30 billion human population; and, that the sackings/disciplinary proceedings are proof positive of the PRC Government's determination.

In addition, Beijing's new '*brooms*' would like to project an international image of openness.

The disciplinary proceedings against former cadre of the PRC included, inter alia, demotions and public reprimands.

These acts, probably unprecedented in the recent history of the country, were due to the many incidents of concealment of SARS cases, procrastination in taking adequate measures to try to contain SARS, as well as individuals, taking leave without express written approval from senior officials of the cities/regions.

With regard to the matter of taking leave without, first, seeking written approval from superiors, it was proved that many officials, purposely, absented themselves from their desks, in very great haste, in order that they would have a legitimate excuse for their non-actions and those of their underlings.

While Beijing goes one way in dealing with the misdemeanors and felonious acts of its cadre, it is unlikely that the HKSAR will follow suit.

Of that, there can be no question.

Recent acts by the Government of Mr Tung Chee Hwa, in point of fact, indicate that, if anything, the territory and its Government are becoming more and more reclusive about its affairs, and much more defensive of its Ministers when they are found to be wanting.

All of the Ministers, it must be remembered, are appointed by the Chief Executive, to whom they report, directly.

This, the people of the HKSAR have been told, makes the Government of Mr Tung Chee Hwa more accountable than ever before.

'Justice should not only be done, but should manifestly and undoubtedly be seen to be done', said Lord Hewart (1870–1943), a renowned English justice, who made this statement on November 9, 1923 in one of his most famous rulings.

Not so for Mr Tung Chee Hwa's Ministers, though.

Where mystery and surreptitiousness begin, justice seems to end.

Case in point: Mr Antony Leung Kam Chung, Financial Secretary, a Minister, appointed to the Inner Cabinet of Mr Tung Chee Hwa, personally.

Mr Antony Leung, on March 5, 2003, announced The Budget for the HKSAR for Fiscal 2003-2004.

The Budget included, inter alia, a recommendation that the First Registration Tax on motor vehicles should be increased, materially.

Just hours prior to announcing his recommendations in the Legislative Council, on the morning of the same day, Financial Secretary Leung briefed the Executive Council in respect of the main recommendations, contained in The Budget.

He did not declare to the Executive Council, however, that, just one week prior, he had taken delivery of a new motor car.

Two days later, following the discovery that Mr Antony Leung had taken advantage of his privileged position, he offered to resign as Financial Secretary.

Chief Executive Tung Chee Hwa declined to accept his Minister's Letter of Resignation.

Although, Mr Tung Chee Hwa did describe the act of one of his most senior advisors in his inner circle as being '*gross negligence*', nevertheless.

Mr Tung Chee Hwa, also, stated that the Financial Secretary was guilty of no wrongdoing.

A determination had been made, à la Star Chamber.

In defence of his acts, Mr Antony Leung explained, publicly, that he breached his duty of fidelity, but that the act was due to his love of his wife and his newborn daughter.

He was blinded, he said, by those loves.

He said that he felt, for the sake of his family, that he had to purchase a new motor car in order to be able to drive in absolute safety round the HKSAR.

In short, he had attempted to steal from the public purse – and he would have succeeded had not the media discovered the fraud – in order to keep his family safe while driving in a luxury motor car.

It is to be assumed that, had not the media been tipped off about his wrongdoing, Mr Antony Leung would have been able to pocket a sizeable amount of change.

The other Ministers, loyal to the Chief Executive, closed ranks.

Chief Secretary Donald Tsang Yam Kuen was quoted as stating:

'The breach (of Minister Leung) was negligence rather than a calculated deceit. It is, if anything, a sin of omission rather than a sin of commission.'

Perhaps, Chief Secretary Donald Tsang Yam Kuen is a good, practising Catholic, but it would appear that he would have made a rather poor lawyer ... even by the standards of the PRC.

At law, there is the term, mens rea.

This Latin term is, generally, accepted to mean, simply put: A guilty mind; a guilty or wrongful purpose; guilty knowledge or willfulness.

It would be interesting to learn how the Chief Secretary knew of the thinking of the Financial Secretary in purchasing a new, luxury motor car, allowing a saving of about \$HK190,000 – just one week prior to announcing the new, increased First Registration Tax on motor vehicles.

Any determination in respect of the actions of Mr Antony Leung should be predicated on law ... not politics.

Unless, of course, Mr Leung is above the law?

However, it is only too apparent that the Chief Executive of the HKSAR, Mr Tung Chee Hwa, has taken it upon himself to make determinations of law by applying political tests.

Without casting aspersions on the Chief Executive, one has to ask whether or not the credibility of Mr Tung Chee Hwa has been further damaged by this scandal because it was he who appointed Mr Antony Leung as a Minister: One of his closest advisors, actually, since Mr Leung stands right up there in the top ten leaders of the HKSAR, according to pecking order.

Certain members of the Legislative Council would like to see the back of Mr Antony Leung because they claim that the credibility of the Legislative Council and of the Government are at stake, here, not just Mr Antony Leung's apparent greed.

It must be held that every starfish has the right to life and no indiscriminate killing of its species is to be condoned.

In the same way, a scandal of the magnitude of that which has come to light in respect of Mr Antony Leung may not be brushed aside by a high-ranking politician on the grounds he, alone, has decided that he finds no evidence of mens rea.

Any determination in respect of the actions of the Financial Secretary should be based on law, not politics.

Of that, there can be no retreat.

Finally, the last time that **TARGET** wrote about the Chief Executive of the HKSAR, our office was visited by a member of the staff of the Government, with 2 of the most senior members of our staff, followed round parts of the HKSAR for at least one day by members of the Hongkong Police Force.

TARGET trusts that it has not acted contrary to Article 23 of The Basic Law of the HKSAR and/or that anything that has been published by **TARGET** is deemed seditious, but if there has been such an alleged breach, which is not admitted, may this medium, in its defence, state that it is the love that this medium bears for truth and honesty that has been responsible for the breach.

To bastardise William Wordsworth's famous speech of Marcus Brutus in the play, Julius Caesar, when Brutus attempted to defend his part in the murder of Julius:

'Not that I loved Caesar less, but that I loved liberty more.'

Perhaps the English poet John Milton (1608–1674) should have the last say:

'Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.'

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